

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Resolution ALJ 176-3139  
Administrative Law Judge Division  
September 23, 2004

**R E S O L U T I O N**

RESOLUTION ALJ 176-3139. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

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The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

**The Categories**

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates

three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

### **Mixed or Unclear Category Proceedings**

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative

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categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

### **Next Steps**

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

### **Conclusion**

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

**IT IS ORDERED** that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on September 23, 2004, the following Commissioners voting favorably thereon:

/s/ STEVE LARSON

STEVE LARSON  
Executive Director

MICHAEL R. PEEVEY  
President  
CARL W. WOOD  
LORETTA M. LYNCH  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
Commissioners

## PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3139 (9/23/04)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A04-08-041</b> SBC ADVANCED SOLUTIONS, INC., pursuant to Section 853 (b) of the Public Utilities Code for exemption from the provisions of Section 851 of the Public Utilities Code with respect to the transfer of certain local field organization assets.	Ratesetting	Ratesetting	NO
<b>A04-08-042</b> SOUTHERN CALIFORNIA WATER COMPANY (U 133-W), for an Order authorizing it to increase rates for water service in: the Arden-Cordova Customer Service Area by \$677,900 or 9.65% in 2005; by \$177,600 or 2.31% in 2006; and by \$186,000 or 2.36% in 2007; the Bay Point Customer Service Area by \$227,300 or 4.71% in 2005; by \$126,400 or 2.50% in 2006; and by \$136,100 or 2.63% in 2007; the Clearlake Customer Service Area by \$136,200 or 10.37% in 2005; by \$45,800 or 3.16% in 2006; and by \$47,900 or 3.20% in 2007; the Los Osos Customer Service Area	Ratesetting	Ratesetting	YES
<b>A04-09-004</b> CITY OF EUREKA, for an Order to close the "J" Street Intersection Crossing at Waterfront Drive and to construct a new crossing improvement at the "I" Street intersection across the tracks of the North Coast Railroad Authority.	Ratesetting	Ratesetting	NO
<b>A04-09-005</b> SAN GABRIEL VALLEY WATER COMPANY (U 337-W), for authority to increase rates charged for Water Service in its Los Angeles County Division by \$11,010,200 or 29.3% in July 2005; by \$1,590,100 or 3.3% in July 2006; and by \$1,798,600 or 3.6% in July 2007. (TEND 1304)	Ratesetting	Ratesetting	YES
<b>A04-09-006</b> PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), for an order authorizing the sale and conveyance of a certain parcel of land in Shasta County pursuant to Public Utilities Code Section 851.	Ratesetting	Ratesetting	NO
<b>A04-09-007</b> COMMEX COMMUNICATIONS, INC., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO

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Resolution ALJ 176-3139 (9/23/04)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A04-09-008</b> LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY, for an order authorizing the construction of a two-track grade separated crossing for the Eastside Corridor Light Rail Transit Line within a median of Third Street beneath and within the existing structures for the State 60 Freeway westbound connector, for the State 60 Freeway, for the I-710 Freeway southwest connector, and for the I-710 Freeway southeast connector along with a grade separated crossing on an existing structure above the I-710 Freeway in the County of Los Angeles.	Ratesetting	Ratesetting	NO
<b>A04-09-009</b> AVISTA CORPORATION, SOUTHWEST GAS CORPORATION, for authority to sell interests in utility property pursuant to the provisions of Section 851, Public Utilities Code of the State of California.	Ratesetting	Ratesetting	NO
<b>A04-09-011</b> CALIFORNIA-AMERICAN WATER COMPANY, WATERTEK, INC., for the following orders: 1. Authorizing Raymond Smith, the owner and sole shareholder of Watertek, Inc., to sell and transfer to California-American Water Company all of his outstanding stock of Watertek, Inc., which includes Watertek's ownership of three wastewater utilities: Communities of Spreckels, Oak Hills, and Indian Springs; 2. Authorizing Watertek, Inc., to withdraw from providing wastewater utility services to these three wastewater utilities and thereby terminating Watertek, Inc.	Ratesetting	Ratesetting	NO
<b>A04-09-012</b> G2 SOLUTIONS, LLC, for a Certificate of Public Convenience and Necessity to offer Local Exchange, Access and Interexchange Services.	Ratesetting	Ratesetting	NO
<b>A04-09-013</b> ALAMEDA CORRIDOR - EAST CONSTRUCTION AUTHORITY, for authority to eliminate two main line grade crossings over Union Pacific Railroad Company's Alhambra Subdivision; by construction of a grade separation and at-grade drill track at Sunset Avenue, addition of two tracks to an adjacent grade crossing at California Avenue and closure of Orange Avenue at the railroad, in the City of Industry, County of Los Angeles.	Ratesetting	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A04-09-014</b> GLOBAL TEL*LINK CORPORATION, GORES PORTFOLIO HOLDINGS, INC., for authority to transfer control of an authorized telecommunications carrier.	Ratesetting	Ratesetting	NO
<b>A04-09-015</b> MOBIL PACIFIC PIPELINE COMPANY, to decertify/abandon its G-130 crude pipeline.	Ratesetting	Ratesetting	NO
<b>A04-09-016</b> CROWN CASTLE SOLUTIONS CORP., for a certificate of public convenience and necessity to provide facilities- based and resold competitive local exchange service, access and interexchange service.	Ratesetting	Ratesetting	NO
<b>A04-09-017</b> ANAHEIM RV STORAGE, LLC., SOUTHERN CALIFORNIA EDISON COMPANY, for authority to lease available land on the Barre-Del Amo Transmission right of way to Anaheim RV Storage, LLC	Ratesetting	Ratesetting	NO
<b>A04-09-018</b> SOUTHERN CALIFORNIA EDISON COMPANY, TARGET CORPORATION, for authority to lease available land on the El Nido-La Fresa Transmission right of way to Target Corporation.	Ratesetting	Ratesetting	NO
<b>A04-09-019</b> CALIFORNIA-AMERICAN WATER COMPANY, for a certificate of public convenience and necessity to construct and operate its Coastal Water Project to resolve the long- term water supply deficit in its Monterey District and to recover all present and future costs in connection therewith in rates.	Ratesetting	Ratesetting	YES